

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION

DAVID WHITAKER

CIVIL ACTION NO. 09-cv-1944

VERSUS

JUDGE WALTER

LAND ENDEAVORS, LLC, ET AL

MAGISTRATE JUDGE HORNSBY

**MEMORANDUM ORDER**

David Whitaker (“Plaintiff”) filed this civil action against Land Endeavors, LLC and Chesapeake Louisiana, LP. Chesapeake removed the case based on an assertion of diversity jurisdiction. Chesapeake acknowledged that Plaintiff and Land Endeavors appear to both be Louisiana citizens, which would destroy diversity, but Chesapeake asserted that the citizenship of Land Endeavors should be ignored pursuant to the improper joinder doctrine, which is outlined in Smallwood v. Illinois Central RR Co., 385 F.3d 568 (5th Cir. 2004).

If Plaintiff contests the assertion that Land Endeavors was improperly joined, he must file a motion to remand, supported by a memorandum, by **July 26, 2010** and explain why there is a reasonable basis to predict that state law would allow Plaintiff to recover against Land Endeavors. If Plaintiff timely files a motion to remand, it will be noticed for briefing so that Chesapeake can respond and attempt to meet its burden on the improper joinder issue.

If Plaintiff does not timely file a motion to remand and challenge the improper joinder plea, the court will consider Plaintiff to concede the point, Land Endeavors will be dismissed, and the case will proceed toward a Scheduling Order.

THUS DONE AND SIGNED in Shreveport, Louisiana, this 22nd day of June, 2010.

  
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MARK L. HORNSBY  
UNITED STATES MAGISTRATE JUDGE